

- (1) Whether the Appeals Board has jurisdiction to review this matter.
- (2) Whether the claimant is entitled to temporary total disability and medical treatment benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board, for preliminary hearing purposes, makes the following findings of fact and conclusions of law:

(1) As the Order of the Administrative Law Judge fails to contain sufficient findings to determine whether jurisdictional issues exist under which the Appeals Board is statutorily empowered to take jurisdiction over this proceeding, the matter must be remanded for additional findings.

Before the Appeals Board can exercise jurisdiction over a preliminary hearing matter, the issues must be one of those enumerated in K.S.A. 44-534a, or the Administrative Law Judge must have exceeded his jurisdiction as required by K.S.A. 44-551.

K.S.A. 44-534a(2) provides that the following issues are deemed jurisdictional and subject to review by the Appeals Board: 1) Whether the employee suffered an accidental injury; 2) Whether the injury arose out of and in the course of employment; 3) Whether notice is given or claim timely made; and, 4) Whether certain defenses apply.

The Order of Administrative Law Judge Floyd V. Palmer dated August 8, 1994, reads as follows:

- “1. That an Order granting temporary total disability compensation should be and hereby is denied.
2. That an Order granting medical treatment should be and hereby is denied.

Claimant has not carried her burden of proof.”

As the Order fails to set forth the judge's findings, it is uncertain whether the judge denied benefits for one of the reasons set forth in K.S.A. 44-534a mentioned above, or whether the denial was based upon some other reason.

A review of the record indicates that the respondent and insurance carrier alleged that claimant was not entitled to temporary total disability and medical benefits for at least three different reasons. First, the respondent alleges that claimant did not sustain accidental injury that arose out of and in the course of her employment with the respondent. Second, the respondent and insurance carrier deny timely notice. Third, the respondent and insurance carrier contend claimant is not entitled to temporary total disability compensation benefits regardless of whether the claimant has sustained an injury for which she is entitled workers compensation benefits as the respondent alleges that claimant has not proven that she is temporarily totally disabled from the alleged injury. The claimant's allegation that she is in need of medical treatment does not appear to have been directly challenged by respondent. Consequently, specific findings by the Administrative

Law Judge are necessary to determine whether the Appeals Board has jurisdiction to hear this appeal.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this proceeding be remanded to the Administrative Law Judge for additional findings that are sufficient to permit determination as to whether jurisdictional issues exist to empower the Appeals Board to review this matter.

IT IS SO ORDERED.

Dated this ____ day of September, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Sally G. Kelsey, 16 East 13th Street, Lawrence, KS 66044
Matthew W. Tills, 801 Walnut, Suite 300, Kansas City, MO 64106
Floyd V. Palmer, Administrative Law Judge
George Gomez, Director